

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

National Academy of Construction – Mobilisation of funds for the National Academy of Construction – Inclusion of clause in the Tender Notices and Agreements for contribution of 0.25% from the Gross Bill of Contractors – Cancellation – Orders – Issued.

TRANSPORT, ROADS AND BUILDINGS (ROADS.III) DEPARTMENT

G.O.Ms.No. 13

Dated: 3rd February, 2012.

Read the following:-

1. GOMs.No.92, TR&B (B.I) Dept., dt. 19.5.1998.
2. GOMs.No.103, TR&B (R.III) Dept. dt. 16.6.1998.
3. GOMs.No.61, TR&B (R.III) Dept., dt. 11.4.2000.
4. GOMs.No.159, TR&B (R.III) Dept., dt. 30.10.2004.
5. Judgment of Hon'ble High Court, dt. 19-7-2005 in WP.Nos., 23750/2000 & batch filed by certain contractors.
6. GOMs.No.224, TR&B (R.III) Dept., dt. 6.8.2008.
7. Common Judgment of Hon'ble High Court, dt. 21-7-2010 in WA.Nos. 2117/2005 & batch and WA.No.760/2008.
8. Order, dt. 7.1.2011 of Hon'ble Supreme Court of India in Spl. Leave to Appeal (Civil) No.CC 19964 – 19970/2010.
9. From the Director General, National Academy of Construction, Hyd., Lr.No.NAC/Appeals/2010-111/XIII/5003 & 5123, dt. 12.7.2011 & 16.7.2011.

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ORDER:-

In the G.O. first read above, orders were issued permitting the Executive Engineers to conclude supplemental agreements with the Contractors for works under execution and to be entrusted in future basing on the request of Builders' Association of India, to deduct 0.25% of gross amount of bill and remit it to the Institute of Construction Technology of India at Hyderabad by 5th of every succeeding month.

2) In the G.O. second read above, orders were issued approving the scheme of starting National Academy of Construction and granted an extent of Acres 167.30 Gts., in Sy.Nos.5/2 to 5/23 in Izzatnagar village, Lingampally Mandal, Ranga Reddy District, to the National Academy of Construction, free of cost.

3) In the G.O. third read above, orders were issued directing all the Departments of the State as well as the Corporations under their administrative control to include the above condition in Tender Documents and Agreements Forms, so as to collect 0.25% from the

Contractors' gross bills, as their contribution to the National Academy of Construction, thus making such contribution mandatory. The condition shall be included in Tender Documents and Agreements Forms from 1-4-2000 and recovery shall be effected on all bills and all works newly taken up according to the new condition from 1-4-2000.

4) In the G.O. fourth read above, orders were issued that the 0.25% contribution from the Contractors continue and to be divided between Chief Minister's Relief Fund and National Academy of Construction in the ratio of 0.15% and 0.10% respectively.

5) Aggrieved by the above orders certain contractors have filed WPs No.23750/2000 and batch before the High Court of Andhra Pradesh and in its common Judgment dated 19.07.2005, the Hon'ble High Court held that the impugned G.O. cannot sustain when it was issued without any statutory authority

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and accordingly set aside. The High Court further held that the orders issued in GOMs.No.92, TR&B (B.I) Dept., dt. 19.5.1998, this order does not however, preclude the NAC, Hyderabad for collecting the contributions made voluntarily by the members, as it has to meet expenses for the day to day activities and management.

6) Against the above orders, the Government have filed an Appeal before High Court of Andhra Pradesh in Writ Appeal No. 2117 of 2005 and batch the same has been dismissed on 21-7-2010. After that Govt., have filed SLP No.19964 to 19970/2010 before the Hon'ble Supreme Court and it was dismissed on 6-1-2011.

7) The DG, NAC in his letters 9th read above has informed that the Hon'ble Supreme Court of India have dismissed the SLP filed by NAC on recovery of 0.25% contribution from contractors. Therefore, he has requested (i) not to incorporate the clause of recovery of 0.25% contribution to NAC in the Tender Notices and agreement bonds; and (ii) Not to deduct 0.25% contribution to NAC from the contractors' bills in respect of the works already taken up. NAC is still receiving the cheques pertaining to 0.25% contribution from various Departments and the amounts received from 01.07.2011 onwards are being deposited separately into the Bank which are not being used for NAC expenses and requested to intimate the action to be taken.

8) Government, after careful examination of the matter and keeping in view the orders of Hon'ble High Court of A.P., and Hon'ble Supreme Court of India in the reference 7th and 8th read above, hereby cancel the orders issued in G.O.Ms.No. 92, TR&B (B.I) Dept., Dt.19.05.1998 and G.O.Ms.No.61, TR&B (R.III) Dept., Dt.11.04.2000 with immediate effect.

9) This order issues with the concurrence of Finance (W&P) Dept., vide their U.O.No. 3199/F8/(1)/2011-1, dt. 1-10-2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P. SINGH
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Engineer-in-Chief (R&B) Admn. & N.H., Hyd.

The Engineer-in-Chief (R&B) SR., Hyd.

The Engineer-in-Chief (R&B) Buildings, Hyd.

The Chief Engineer, CRN & M.D., APRDC, Hyd.

The Chief Engineer (Rural Roads), Hyd.

The Chief Engineer (PPP) Hyd.,

The Secretary to Government, I&CAD Dept.

The Secy., to Govt., P.R.&R.D. Dept.

The P.S. to Prl. Secy., to C.M.

The P.S. to Min. (R&B)

The P.S., to Prl.Secy. (R&B).

The Director General, NAC, Hyd.

Copy to: The P.A.O., A.P., Hyd.

The Finance (Expr.PW) Dept.

The Law (E) Dept.

The Finance (Projects Wing) Dept.

The Govt., Pleader for R&B, A.P. High Court, High Court buildings, Hyd.

// FORWARDED :: BY ORDER //

SECTION OFFICER